

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MICHAEL D. TARR, :
Plaintiff, :
v. : Case No. 3:05-cv-31-KRG-KAP
RALPH PERIANDI, PENNSYLVANIA :
STATE POLICE, and LINDA BONNEY, :
Defendants :
:

MEMORANDUM ORDER

This matter was referred to Magistrate Judge Keith A. Pesto for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and subsections 3 and 4 of Local Rule 72.1 for Magistrate Judges.

On March 12, 2008, the Magistrate Judge filed a Report and Recommendation, docket no. 43, recommending that the defendants' motion for summary judgment, docket no. 34, be granted as to plaintiff's claim for deprivation of procedural due process in violation of the Fourteenth Amendment, and that the court decline pendent jurisdiction over the remaining state law claims.

The parties were notified that pursuant to 28 U.S.C. § 636(b)(1), they had ten days to serve and file written objections to the Report and Recommendation. Plaintiff filed timely objections, docket no. 44, focusing properly on the question whether plaintiff possessed a property interest in his position as a result of defendant Periandi's initial recommendation that plaintiff be retained. Periandi's initial decision, which he changed before the end of the probationary period and which was not

alleged to have been communicated to plaintiff, did not create a property interest in plaintiff's employment.

Accordingly, after de novo review of the record of this matter, together with the Report and Recommendation and the objections thereto, the following order is entered:

AND NOW, this 28th day of March, 2008, it is

ORDERED that defendants' motion for summary judgment, docket no. 34, is granted as to the procedural due process claim. The exercise of pendent jurisdiction is declined: plaintiff's state law claims are dismissed without prejudice to appropriate proceedings in state court. See 42 Pa.C.S. § 5103(b). The Report and Recommendation is adopted as the Opinion of the Court. The Clerk shall mark this matter closed.

BY THE COURT:



KIM R. GIBSON,
UNITED STATES DISTRICT JUDGE

Notice to counsel of record by ECF